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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,169	01/28/2004	Ichiro Ozawa	03500.015174.1	2167
5514	7590	01/19/2005	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO			BEATTY, ROBERT B	
30 ROCKEFELLER PLAZA			ART UNIT	
NEW YORK, NY 10112			PAPER NUMBER	
			2852	

DATE MAILED: 01/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/765,169

**Applicant(s)**

OZAWA ET AL.

**Examiner**

Robert Beatty

**Art Unit**

2852

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 44-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 44-49, 53 and 54 is/are rejected.
- 7) ☒ Claim(s) 50-52 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☒ Certified copies of the priority documents have been received in Application No. 09/793,130.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 44-49, 53-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Schampelaere et al. '762 in view of De Schampelaere et al. '905.

De Schampelaere et al. teach an image forming apparatus comprising an image forming member 23 on which an electrostatic latent image is formed, a developing means 28 for developing the latent image with a developing material including toner and carrier, a supply means 33 for supply developer to the developing means, a detecting means 37 for detecting the magnetic permeability of the developing material, an image data bit counter 53 for counting the number of pixels in an image that is developed. The developer can be supplied depending on the output of the magnetic permeability detector and/or the image data bit counter. A switch 50 switches from the image data bit counter developer supply control mode to the magnetic permeability developer supply control mode after a predetermined

time period has elapsed (col.3, lines 36) in which image formations are made. This predetermined time period is the “running-in” of newly supplied developer material and which takes time for the magnetic permeability to stabilize as explained in De Schamphelaere et al.’762. De Schamphelaere et al. ‘762 teach everything claimed except switching the developer supply modes depending on the detected magnetic permeability information and specifically, if the magnetic permeability does not substantially change (difference is zero).

De Schamphelaere et al. ‘905 teach an image forming apparatus having a developing device which is supplied with a new fresh batch of developer material including carrier and toner. As seen in Fig.3, the output of a magnetic permeability sensor will stabilize to a value  $V_2$  after a predetermined time period  $n_x$  which is the “running-in” period of the developer mix. It would have been obvious to one of ordinary skill in the art at the time the invention was made to switch the control modes in De Schamphelaere et al.’762 by either waiting a predetermined time period or detecting when the magnetic permeability sensor output stabilizes to a level value because these are equivalent concepts as taught in De Schamphelaere et al. ‘905.

3. Claims 50-52 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Beatty whose telephone number is (571) 272-2130. The examiner can normally be reached on M-F from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Arthur Grimley, can be reached on (571) 272-2136. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.

A handwritten signature in black ink, appearing to read 'Robert Beatty', with a long, sweeping horizontal line extending from the end of the signature.

Robert Beatty  
Primary Examiner  
Art Unit 2852

January 19, 2005